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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,263	05/10/2005	Thomas Sturm	71708	7345
23872	7590	12/03/2007		
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227			EXAMINER KERNS, KEVIN P	
			ART UNIT 1793	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,263	<b>Applicant(s)</b> STURM, THOMAS	
	<b>Examiner</b> Kevin P. Kerns	<b>Art Unit</b> 1793	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 September 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☒ Claim(s) 20 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/28/05</u> . | 6) <input type="checkbox"/> Other: _____  |

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kevin P. Kerns whose telephone number is (571) 272-1178. The examiner can normally be reached on Monday-Friday from 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jonathan Johnson can be reached on (571) 272-1177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kevin P. Kerns *Kevin Kerns 11/20/07*  
Primary Examiner  
Art Unit 1793

*KPK*  
kpk

November 20, 2007

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I (claims 1-20) in the reply filed on September 27, 2007 is acknowledged. The traversal is on the ground(s) that both groups of inventions are similar and have a uniform inventive idea that comprises clamping devices. Upon review, this argument is found persuasive and the restriction requirement is withdrawn. Thus, all of claims 1-21 are examined in this Office Action.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "28" (see Figure 2). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. The disclosure is objected to because of the following informalities: in paragraph [0002], the last line is incomplete (ends with "with"). In the 1<sup>st</sup> lines of paragraphs [0034] and [0035], replace "Figures" with "Figure". Appropriate correction is required.

***Claim Objections***

4. Claims 20 and 21 are objected to because of the following informalities: in claim 20, 2<sup>nd</sup> and 3<sup>rd</sup> lines, the commas should be deleted after both instances of "said". In claim 21, 2<sup>nd</sup> line, insert "a" before "body part clamping". In claim 21, 4<sup>th</sup> line, insert hyphens between "strip" and "shaped" for consistency with the language of independent claim 1. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding independent claim 1, the phrase "or the like" (in this instance, the term "like") renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like", or "like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). The limitation "frame-

like” includes this indefinite term. Furthermore, MPEP 2173.05(b), under heading E. “Type” (MPEP page 2100-216 of August 2006, Revision 5) states “*The addition of the word “type” to an otherwise definite expression...extends the scope of the expression so as to render it indefinite*”. *Ex parte Copenhaver*, 109 USPQ 188 (Bd. App. 1955). In this instance, it is suggested to delete the term “like”, as this term is also similarly indefinite as the term “type”.

With regard to independent claims 1 and 21, the limitation “adapted to the course of” is indefinite, as it is unclear how the structural features within the claims would be positioned and/or operate relative to one another.

With regard to claim 2, the limitation “in the form of strips or in an open arc or in an arc closed to form a ring” is indefinite due to three generally unrelated features being presented with two instances of the optional term “or”.

With regard to claims 4 and 5, the phrase “can be” is indefinite, as “can be” recites an optional function of being “moved”. It is suggested to replace “can be” with “is” to more distinctly define this limitation in the claims.

Claims 7 and 10 recite the limitation “the points of impact”. There is insufficient antecedent basis for this limitation in the claims.

With regard to claim 9, the limitation “an integrated or external motor or manual drive” is indefinite due to three features being presented with two instances of the optional term “or”.

Claim 12 recites the limitation “the feeding pushing movement”. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "the joint clamping movement". There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the working position". There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitations "the internal feeding" and "the outside". There is insufficient antecedent basis for these limitations in the claim.

With regard to claim 19, the phrase "can be" is indefinite, as "can be" recites an optional function of being "connected". It is suggested to replace "can be" with "is" to more distinctly define this limitation in the claim.

Claim 20 recites the limitations "said, alternately projecting pins", "said, corresponding flange openings", and "said associated component flanges". There is insufficient antecedent basis for these limitations in the claim.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-21 insofar as definite (in view of the 35 USC 112, 2<sup>nd</sup> paragraph rejections and in the absence of a complete translation of the German document) are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 201 03 412 U1 in view of Hamada et al. (US 5,267,683).

DE 201 03 412 U1 (also see paragraphs [0004] and [0005] -- the applicant's admitted prior art in the specification) discloses a stationary clamping device/system, in which the clamping device/system includes at least the following structural features: a plurality of individual clamping units into which components are inserted and are used in the construction of jigs and fixtures; a welding device 1 comprising a welding tool 20 (robot having a laser 21 for use in welding and machining) for welding of the multi-part workpieces (3,4), such as multi-shelled containers whose parts have workpiece flanges (5,6) having a tensioning device 8 for positionally exact tensioning, such that the tensioning device 8 has several tensioners 10 with a support device 13 and a movable tensioning element 12 for tensioning and alignment (framing) of workpiece flanges (5,6); a pressure element 22 that presses together the workpiece flanges (5,6); and a movement device 14 for generating a relative movement between the workpiece and the welding tool 20, such that the clamping device/system allows for sealed welding of the workpiece parts (3,4) at workpiece flanges (5,6) (abstract; page 4, line 30 through page 13, line 29 of German text; and Figures 1-6). DE 201 03 412 U1 does not specifically disclose the combination of fixed and mobile strip-shaped clamping units.

However, Hamada et al. disclose an apparatus for assembling motorcar vehicle bodies, in which the apparatus includes a plurality of welding robots 10 (feed devices with respective holders) in combination with a clamping device that further comprises a presetting jig 9 that serves to clamp a plurality of parts (best shown in Figures 3 and 4), such that the presetting jig 9 further includes a jig main body 9b (comprising adjacent fixed and mobile clamping units shaped as strips/plates arranged in an arc to form a



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ring) that is operable to be advanced or passed into a compartment side of the motorcar through a door opening, a plurality of clamping members 9c (Figures 3 and 4) that serve as both fixed and mobile clamping units that operate in a controllable sequence, and clamping arms 9c5 (multi-armed actuating levers with respective clamping cams) that are opened and closed by an opening and closing cylinder 9c6 (operable for pushing and clamping) as a portion of the mobile clamping unit, such that the combination of fixed and mobile clamping units are advantageous for providing clamping of the door opening relative to a workpiece receiving member to thereby hold a side panel in an aligned manner, and thus to obtain more efficient assembling of the vehicle bodies (abstract; column 1, lines 6-9; column 2, lines 8-68; column 3, lines 1-8 and 35-68; column 4, line 1 through column 6, line 23; and Figures 1-4).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify the clamping device/system for use in welding components, as disclosed by DE 201 03 412 U1, by using the combination of fixed and mobile strip-shaped clamping units, as taught by Hamada et al., in order to provide clamping of the door opening relative to a workpiece receiving member to thereby hold a side panel in an aligned manner, and thus to obtain more efficient assembling of the vehicle bodies (Hamada et al.; abstract; column 3, lines 3-8; and column 5, lines 52-68).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 4,893,398 is also cited in PTO-892.